IN RE: PETITION FOR VARIANCE N/S Mallard Road, 100' NW centerline of Pheasant Road 15th Election District 5th Councilmanic District

(6708 Mallard Road)

Peter Jesionkiewicz & Jennifer Kerhin Petitioners

* BEFORE THE

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* CASE NO. 02-388-A

* * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Peter Jesionkiewicz and Jennifer Kerhin. The variance request involves property located at 6708 Mallard Road, located in the Bird River area of Baltimore County. The Petitioners are requesting variance relief as follows:

- 1. From Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an existing detached accessory structure to be located on the front property of a proposed dwelling in lieu of the required rear;
- 2. From Section 400.3 of the B.C.Z.R., to allow an existing detached accessory structure to have a height of 18 ft. in lieu of the maximum permitted 15 ft; and
- 3. From Section 1A01.3.B.3 of the B.C.Z.R., to allow a proposed principal structure to be situated 38 ft. from the centerline of a street and a side yard setback of 10 ft. in lieu of the required 75 ft. and 35 ft. respectively.

Appearing at the hearing on behalf of the variance requests were Peter Jesionkiewicz and Jennifer Kerhin, owners of the property. There were no protestants in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.523 acres, more or less, zoned RC.2. The subject property is located on the east side of Mallard Road and is a waterfront property fronting on Bird River. The property is currently improved with two dwellings and a number of other accessory structures. The Petitioner is desirous of razing many of the structures on the property and constructing a new

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single-family home for his family. The details of the project are more particularly shown on Petitioners' Exhibit No. 1, the site plan entered into evidence. These Petitioners wish to keep and maintain one of the structures on the property for the purpose of converting it to a garage to be used in conjunction with their single-family residence. All other structures will be demolished. In order to proceed with their plans, the variance requests, as stated previously, are necessary.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioners and their property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. Of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED, this 1/6 day of May, 2002, by this Deputy Zoning Commissioner, that the Petitioners' requests for variance:

- 1) from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to allow an existing detached accessory structure to be located on the front property of a proposed dwelling in lieu of the required rear;
- 2) from Section 400.3 of the B.C.Z.R., to allow an existing detached accessory structure to have a height of 18 ft. in lieu of the maximum permitted 15 ft; and
- 3) from Section 1A01.3.B.3 of the B.C.Z.R., to allow a proposed principal structure to be situated 38 ft. from the centerline of a street and a side yard setback of 10 ft. in lieu of the required 75 ft. and 35 ft. respectively.

be and is hereby GRANTED subject, however, to the following restriction which is a condition precedent to the relief granted herein:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

TIMOTHY M. KOTROCO

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:rai

SOFF RECEIVED FOR FLING

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Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204 410-887-4386

Fax: 410-887-3468

May 16, 2002

Mr. Peter Jesionkiewicz Ms. Jennifer Kerhin 6708 Mallard Road Baltimore, Maryland 21220

> Re: Petition for Variance Case No. 02-388-A Property: 6708 Mallard Road

Dear Mr. Jesionkiewicz & Ms. Kerhin:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,
Luthy Hotroco

Timothy M. Kotroco

Deputy Zoning Commissioner

TMK:raj Enclosure



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 6708 man and 120 months of C-2

I/We do solemnly declare and affirm, under the penalties of

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

See attached

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

-to be discussed out hearing

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

		perjury, that I/we are t is the subject of this P	he legal owner(s) of th	e property which
Contract Purchaser/Lessee:		Legal Owner(s):	,	
		Peter Jesionki	ewicz/Jennife.	Kerhin
Name - Type or Print		Name - Type or Print	ewicz/Jennife.	
Signature		Signature		
Address	Telephone No.	Name - Type or Print		
City State	Zip Code	Signature 6708 MA	ACCARO RO	3351996
Attorney For Petitioner:		Address	4004800 100	Telephone No.
Name - Type or Print		BALQO.	MO . State	Z /22 0 Zip Code
reame - type of time		Representative to	o be Contacted:	— ,
Signature		- · ·		
Company		Name Same	as outers	
-Address	Telephone No.	Address		Telephone No.
City State	Zip Code	City	State	Zip Code
. \		<u>ofi</u>	TICE USE ONLY	
Case No. 02-388-A	-	ESTIMATED LEN	GTH OF HEARING	
Case to. 02-388-A	_	UNAVAILABLE FO	R HEARING Date	3/13/02
		Reviewed By)/C Dale	
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Section 400.1 to allow an existing detached accessory structure to be located on the front property of a proposed dwelling in lieu of the required rear.

Section 400.3 to allow an existing detached accessory structure to have a height of 18 feet lieu of the maximum permitted 15 feet.

Section 1AO1.3.B.3 to allow a proposed principal structure to be situated 38 feet from the centerline of a street and a side setback of 10 feet in lieu of the required 75 feet and 35 feet respectively.

ZONING DESCRIPTION FOR 6708 MALLARD RD., BALTIMORE, MD.21220

Beginning at point on the North side of Mallard Rd. Which is 16' wide at the distance of 100' Northwest of the centerline of the nearest intersecting street

Pheasant Rd. which is 16' wide. *Being lot # 85 & 86, Section # 1 in the subdivision of Bird River Beach as recorded in Baltimore County Plat Book # 7, Folio # 70, containing 22,794 square feet. Also known as 6708 Mallard Rd., and located in the 15th Election District, 5th Councilmanic District.

3 3 3 Fo.00 OK ON Navyard CASHIER'S VALIDATION ACTUM. 3/13/2002 REAL MODES 9 900 100 YELLOW - CUSTOMER AMOUNT \$ ACCOUNT / BALTIMORE COUNTY, MARYLAND OFFICE OF BUDGET & FINANCE MISCELLANEOUS, RECEIPT PINK - AGENCY WHITE - CASHIER DISTRIBUTION RECEIVED FROM: FOR:

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NOTICE OF ZOURIE REARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in <u>Towson</u>. <u>Maryland</u> on the property identified herein as follows:

Case: #02-388-A

6708 Mallard Avenue N/S Mallard Road, 100' NW centerline Pheasant Road.

15th Election District - 5th Councilmanic District
Legal Owner(s). Peter Jesionkiewicz & Jennifer Kerhis
Fariance: to allow an existing detached accessory structure to be tocated on the front property of a proposed
welling in lieu of the required rear, to allow existing detached-accessory structure to have a height of 18 feet in

Sen of the maximum permitted 15 feet.

Section: Wednesday, May 15, 2902 at 9:00 a.m. In

Rosen 407, County Courts Building, 401 Bosley Avenue.

_β LAWRENCE E. SCHMIDT

Commissioner for Baltimore County

MOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(23' For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391. 37 4791 April 30 0535475

CERTIFICATE OF PUBLICATION

53,2002
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 4 30 ,2002
The Jeffersonian
☐ Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News

LEGAL ADVERTISING

CERTIFICATE OF POSTING

\$ 1831 mg/ p

	RE: Case No.: 02-388-A
	Petitioner/Developer:
	PETER JESIONKIEWICZ
	DENNIFER KERHIS
	Date of Hearing/Closing: 5/15/02
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204 MR. GEORGE SAHMER Attention: MacGrandolm Stephens	
Ladies and Gentlemen:	
This letter is to certify under the nanaltic	s of narings that the government of the last
	s of perjury that the necessary sign(s) required by law
were posted conspicuously on the proper	
6708 M	PALLARD RD.
The sign(s) were posted on	4/30/07
	4/30/02_ (Month, Day, Year)
) .
15= # OZ-388-A	Sincerely,
	(Signature of Sign Poster and Date)
· ·	RICHARD E. HOFFMAN (Printed Name)
	904 DELLWOOD DR. (Address)
The state of the s	[City, State, Zip Code)
	(410) 879-3122
	(Telephone Number)

6708 MALLARO RP. POSTED 4/30/02 Grehull 20/02

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

Item Number or Case Number: ひぇ‐ 3㎏- 夕	
Petitioner: <u>Peter Jesionkiewicz</u> Address or Location: <u>6708 MALLARO RO</u>	`
Address or Location: 6708 MALLARO RO	BALTO. MO. 21220
PLEASE FORWARD ADVERTISING BILL TO:	
PLEASE FORWARD ADVERTISING BILL TO:	
PLEASE FORWARD ADVERTISING BILL TO:	

TO: PATUXENT PUBLISHING COMPANY

Tuesday, April 30, 2002 Issue - Jeffersonian

Please forward billing to:

Peter Jesionkiewicz 6708 Mallard Road Baltimore MD 21220

410 335-1996

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-388-A
6708 Mallard Avenue
N/S Mallard Road, 100' NW centerline Pheasant Road
15th Election District – 5th Councilmanic District
Legal Owner: Peter Jesionkiewicz & Jennifer Kerhis

<u>Variance</u> to allow an existing detached accessory structure to be located on the front property of a proposed dwelling in lieu of the required rear, to allow existing detached accessory structure to have a height of 18 feet in lieu of the maximum permitted 15 feet.

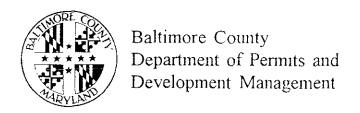
HEARING: Wednesday, May 15, 2002 at 9:00 a.m. in Rm 407, County Courts

Building, 401 Bosley Avenue

LAWRENCE E. SCHMIDT GDZ ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Director's Office County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 410-887-3353

Fax: 410-887-5708

April 8, 2002

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-388-A 6708 Mallard Avenue

N/S Mallard Road, 100' NW centerline Pheasant Road

15th Election District – 5th Councilmanic District Legal Owner: Peter Jesionkiewicz & Jennifer Kerhis

<u>Variance</u> to allow an existing detached accessory structure to be located on the front property of a proposed dwelling in lieu of the required rear, to allow existing detached accessory structure to have a height of 18 feet in lieu of the maximum permitted 15 feet.

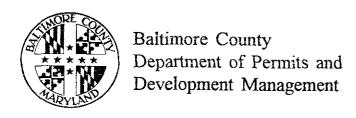
HEARING: Wednesday, May 15, 2002 at 9:00 a.m. in Rm 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon GDZ Director

C: Peter Jesionkiewicz & Jennifer Kerhis, 6708 Mallard Road, Baltimore 21220

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, APRIL 30, 2002.

- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Development Processing County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204 pdmlandacq@co.ba.md.us

May 10, 2002

Peter Jesionkiewicz & Jennifer Kerhis 6708 Mallard Road Baltimore MD 21220

Dear Mr. Jesionkiewicz & Ms. Kerhis:

RE: Case Number 02-388-A 6708 Mallard Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on 3/13/02

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours

W. Carl Kichards, Jr. Supervisor, Zoning Review

WCR:rjc

Enclosures

C: People's Counsel

Baltimore County Fire Department

Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105

Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF March 25,2002

Item No.: See Below

Dear Mr. Zahner:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

Office of the Fire Marshal

Towson, Maryland 21286-5500

700 East Joppa Road

410-887-4880

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

378, 381, 383, 386-389, 391-394, 396-400

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office PHONE 887-4881, MS-1102F

cc: File

COUNTY REVIEW GROUP MEETING (PRIVATE)

County Review Group comments

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Arnold Jablon

FROM:

R. Bruce Seeley RBS 1767

DATE:

April 30, 2002

SUBJECT:

Zoning Item 388

Address 6708 Mallard Road (Jesionkiewicz Property)

Zoning Advisory Committee Meeting of <u>3/25/02</u>

X The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

X Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Additional Comments:

DEPRM generally supports the requested variances as if it would move impervious surfaces from the shoreline buffer.

Reviewer: Glenn Shaffer Date: 4/18/02

GROUND WATER MANAGEMENT

An evaluation of the septic system is required prior to building permit approval. Soil evaluations may be required. Contact GWM for more information.

Reviewer: Sue Farinetti Date: 4/18/02

Sin 5/15

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: April 1, 2002

Department of Permits and Development Management

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

APR 2

SUBJECT:

6708 Mallard Road

INFORMATION:

Item Number:

02-388

Petitioner:

Peter Jesionkiewicz

Zoning:

RC 2

Requested Action:

Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning supports the petitioner's request to raze an existing house, cottage and a garage. However, the petitioner should be made aware that the subject property cannot be subdivided.

Prepared by:

Section Chief:

AFK/LL:MAC:



Parris N. Glendening Governor John D. Porcari Secretary Parker F. Williams

Administrator

Date: 3.26.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County

Item No. 388 B2

Dear. Mr. Zahner:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division

1. f. Soll

My telephone number is ______

RE: PETITION FOR VARIANCE 6708 Mallard Road, N/S Mallard Rd, 100' NW of c/l Pheasant Rd 15th Election District, 5th Councilmanic

Legal Owner: Peter Jesionkiewicz & Jennifer Kerhis

Petitioner(s)

- BEFORE THE
- ZONING COMMISSIONER
- * FOR
- * BALTIMORE COUNTY
- * Case No. 02-388-A

* * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

Peter May Timpensan PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

Varole S. Demilio

CAROLE S. DEMILIO Deputy People's Counsel Old Courthouse, Room 47

400 Washington Avenue Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of March, 2002 a copy of the foregoing Entry of Appearance was mailed to Peter Jesionkiewicz & Jennifer Kerhis, 6708 Mallard Road, Baltimore, MD 21220, Petitioners.

PETER MAX ZIMMERMAN

